THE HONOURABLE SRI JUSTICE V. ESWARAIAH

WRIT PETITION No.26097 OF 2005

Dated: 07-12-2005

Between

J. Yadaiah, S/o. Veeraiah, R/o. H.No.3-37, Kothapet, Hyderabad.

…PETITIONER

AND

The Government of Andhra Pradesh, (Revenue Department), Rep. by its District Collector, Nampally Station, Hyderabad and others.

…RESPONDENTS

ORDER:

Petitioner seeks a Writ of Mandamus to declare the action of the respondents 2 and 3 in refusing his application for grant of permission of construction of building on plot No.16-10-27/105/5/1-6 situated at Malakpet, Hyderabad as illegal and arbitrary.

Learned counsel for the petitioner submits that the petitioner filed an application to the first respondent on 18.10.2003 for issuance of No Objection Certificate so as to enable him to obtain the municipal sanction plan for demolishing the old house bearing No.16-10-27/105/5/1-6 situated at Malakpet, Hyderabad in an extent of 1400 Sq. yards and for construction of building. But the first respondent vide his Endorsement No.N1/B4/8204/03 dated 05.08.2005 informed the petitioner that the said land in classified as Government land (Nizam Sarkar) and further informed the MCH not to accord building permission in favour of the petitioner in respect of the said house. Aggrieved by the same this writ petition is filed.

It is not in dispute that as per Bye-law 4 (2) of the Municipal Corporation Building Bye-Laws, 1981, every application for permission of the construction of buildings shall be accompanied by proof of ownership documents and Town Survey and Land Records (TSLR) number. But the petitioner instead of obtaining the TSLR number from the concerned revenue authorities filed an application for grant of NOC. In fact, NOC from the Collector is not at all required under the relevant rule for sanction of permit for construction of a building.

However, I am of the opinion that the action of the Collector in directing the MCH not to sanction municipal permission for construction of building is without any justification. It is for the concerned municipal authorities to consider the application of the petitioner and TSLR number and take appropriate decision in accordance with law. As per the judgment of this Court in **HYDERABAD POTTERIES PRIVATE LIMITED v. COLLECTOR, HYDERABAD DISTRICT**, the TSLR number cannot be regarded as a sole guiding factor to the competent authority while dealing with the building applications. TSLR entries have to be considered in conjunction with other documents which the applicants would like to place reliance upon. It was held that the Commissioner of Municipal Corporation shall not reject the application solely on the basis of an objection raised by the Collector in refusing to issue NOC. The said objection has to be taken into account while considering the application of the petitioner along with other relevant material on record. The Commissioner was also directed not to reject the application of the petitioner for the grant of permission solely on the basis of an entry stated to have been made in TSLR.

For the purpose of considering his application for building permission the petitioner is directed to obtain the TSLR number from the concerned revenue authorities and after submitting the TSLR number the second respondent may consider and dispose of the application of the petitioner based on the other relevant material along with the TSLR record and pass appropriate orders in accordance with law in the light of observations made in the aforesaid judgment.

The writ petition is accordingly disposed of.

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V. ESWARAIAH, J

December 7, 2005

DSK